



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 26-1340: REVEGETATE OR DRY FARM FORMERLY IRRIGATED AG LAND

Prime Sponsors:

Rep. Winter T.
Sen. Pelton R.; Hinrichsen

Fiscal Analyst:

Josh Abram, 303-866-3561
josh.abram@coleg.gov

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Fiscal note status: The revised fiscal note reflects the reengrossed bill.

Summary Information

Overview. When a water right holder changes the beneficial use of water from irrigated agriculture to some other use, this bill creates a process for the water courts to ensure the formerly irrigated land is revegetated or converted to dryland farming with effective erosion and weed control.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis:

- State Expenditures

Appropriations. No appropriation is required.

Table 1
State Fiscal Impacts

Type of Impact	Budget Year FY 2026-27	Out Year FY 2027-28
State Revenue	\$0	\$0
State Expenditures	\$0	\$0
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	0.0 FTE	0.0 FTE

Summary of Legislation

Beginning January 2027, the water court in Division 2 may only apply a revegetation or conversion order to dryland farming terms and conditions if the prior decree changing the same agricultural irrigation water right did not include revegetation or conversion to dryland.

Division 2 consists of all lands in the drainage basins of the Arkansas River and the Dry Cimarron River, including their streams and tributaries in Colorado.

The water right owner shall comply with such terms and conditions of the water court decree. If, before applying for a change-of-use, an owner gets a permit, or enters an intergovernmental agreement with the local land use authority requiring revegetation or conversion to dryland farming, and the permit or agreement includes site-specific criteria and associated scientific evaluation methods, then the court shall use the criteria and methods set forth in the permit or intergovernmental agreement.

Upon issuing the change-of-use decree, the water court must appoint a neutral third-party revegetation and dryland farming expert to evaluate the progress of the revegetation or conversion process. The water right owner must pay for the third-party evaluator.

To ensure revegetation occurs according to the changes-of-use decree, the water court may:

- order the water right owner to provide financial assurance to the local land use authority to cover the reasonable cost to achieve revegetation and conversion to dryland farming;
- limit the amount of the water right used to the percentage of land that has been successfully revegetated or converted to dryland farming, which will limit the amount of water that can be used for the new beneficial use during the conversion process; or
- incorporate the requirements of an intergovernmental agreement governing the water right owner's use into the change-of-use decree.

State Expenditures

Beginning with FY 2026-27, the bill is expected to extend case duration and increase post-decree oversight in water court, which is housed in the Judicial Department. Based on past experience with revegetation-related decrees, these cases can generate post-decree disputes requiring judicial action, including review of expert reports, resolution of contested issues, and occasional hearings. Approximately half of such cases may involve some degree of post-decree litigation. As a result, the bill is likely to increase the length of affected cases and add to the post-decree workload of Water Judges and staff. Given the rarity of trials and the variability among cases, the amount of additional trial time cannot be estimated.

Because the number of change-of-use cases filed in Water Division 2 is relatively small, any increase in workload should be minimal and absorbable within current resources. If the workload related to more complex litigation exceeds a minimal or absorbable threshold, or if the division experience an increase in the number of cases or sustained post-decree responsibilities, the Judicial Department will seek additional resources through the annual budget process.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State and Local Government Contacts

Agriculture

Judicial

Counties

Natural Resources